

PREAMBLE

This Memorandum of Understanding is between the City of Sunnyvale and the duly authorized representatives of the Sunnyvale Employees' Association (SEA). Its purpose is to promote harmonious relations between the City, the Association and employees by setting forth the understanding of the parties reached as a result of meeting and conferring in good faith regarding the wages, hours and certain other terms and conditions of employment of employees in the classifications comprising this Unit.

CHAPTER A - GENERAL PROVISIONS

ARTICLE A1 - RECOGNITION

- A1.1 The Sunnyvale Employees' Association is hereby acknowledged as the exclusively recognized employee organization for those employees in the classifications listed in Exhibit A as it currently reads or as modified by agreement of the parties during the term of the MOU.
- A1.2 If the City develops a new classification, it shall make an initial determination as to the unit and job family placement of that classification.
- A1.3 The City shall notify the Association of the development of a new classification and the City's initial unit placement and job family placement, and, upon written request from the Association within ten (10) working days from the City's notice, shall consult with the Association concerning these placements of the new classification(s).

ARTICLE A2 - RATIFICATION

- A2.1 It is agreed that the provisions of this Memorandum of Understanding are of no force or effect until ratified by the Association and duly adopted by the City Council of the City of Sunnyvale.

ARTICLE A3 - TERM

- A3.1 The term of this Agreement shall be from July 1, 1999, through and including June 30, 2004, and will thereafter continue in effect until the parties reach agreement on a successor Agreement or the City Council takes action to modify the wages, hours and terms and conditions of employment provided hereunder.

ARTICLE A4 - CITY RIGHTS

- A4.1 Except as modified by this MOU, the rights of the City as contained in the City Charter, Constitution and Laws of the State of California include, but are not limited to, the right to determine the services, activities and functions of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action for just cause; layoff its employees because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which governmental operations are to be conducted; take all necessary actions to carry out its service, activities and functions in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

ARTICLE A5 - FULL UNDERSTANDING, MODIFICATIONS AND WAIVERS

- A5.1 This Agreement sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements over these matters between parties, whether formal or informal, are hereby superseded or terminated in their entirety.
- A5.2 It is agreed and understood that, except as set forth herein, each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of representation, during the term of this Agreement.
- A5.3 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed by all parties hereto, and if required, approved by the City and ratified by the membership of the Association.
- A5.4 The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

ARTICLE A6 - SEVERABILITY

- A6.1 In the event any provision of this MOU is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of the MOU shall remain in full force and effect.
- A6.2 If a provision is declared invalid or unenforceable as provided in Section 6.1 above, then at the written request of either Party submitted to the other within ten (10) working days of such action by the court, the Parties shall meet promptly to negotiate the impact of such declaration by the court.

ARTICLE A7 - ORDINANCES, CODES AND RESOLUTIONS

- A7.1 Any written City ordinances, codes or resolutions currently in effect that cover subjects within the scope of representation shall not be changed during the term of this Agreement without first giving the Association the opportunity to meet and confer concerning such changes, except as otherwise provided by this Agreement.
- A7.2 Such meeting and conferring shall be up to and including mediation.

ARTICLE A8 - SCOPE OF NEGOTIATIONS

- A8.1 The scope of representation shall include all matters relating to employment conditions, and employer-employee relations including but not limited to wages, hours and other terms and conditions of employment, as provided by the Meyers-Milias-Brown Act and as may be amended.

ARTICLE A9 - AUTHORIZED AGENTS

- A9.1 For purposes of administering the terms and provisions of this Agreement:
- A9.2 City's principal authorized representative shall be the City's Director of Human Resources or his/her duly authorized representative (address: 456 West Olive Avenue, Sunnyvale, CA 94088-3707; telephone (408) 730-7495) except where a particular management representative is specifically designated in connection with the performance of a specified function or obligation set forth herein.
- A9.3 The Association's principal authorized agent shall be the President of the Sunnyvale Employees' Association or his/her duly authorized representative. The Association's official mailing address is P.O. Box 70700, Sunnyvale, CA 94086.

ARTICLE A10 –GOVERNMENTAL MANDATES/SOCIAL SECURITY

- A10.1 Social Security
If the Federal Government passes legislation or a court of competent jurisdiction makes a ruling, that makes Social Security applicable to the employees within the Unit, then the parties agree to meet promptly at the request of either party to negotiate the impact of such law or ruling.
- A10.2 It is the intent of the parties to minimize the fiscal impact of such law or ruling upon each of the parties. If possible, there shall be no increased cost to either party while maintaining benefits as close to existing levels as possible.
- A10.3 If the parties have not reached agreement within thirty (30) days of the request to negotiate, the matter shall be submitted to the City's impasse procedure.
- A10.4 OTHER BENEFITS
If the federal government or the State of California mandates any additional benefits applicable to SEA - represented employees, then the parties agree to meet promptly at the request of either party to negotiate the impact of such law or ruling.
- A10.5 PENALTIES
If the federal government or the State of California implements legislation which penalizes the City for paying increases in benefits and wages in excess of certain limits, then the parties agree to meet promptly at the request of either party to negotiate the impact of such law or ruling.

ARTICLE A11 - NON-DISCRIMINATION

- A11.1 The parties agree that they and each of them shall not discriminate against any employee based on race, religious creed, color, national origin, ancestry, gender, sexual orientation, age, physical or mental disability, medical condition, or marital status.
- A11.2 The parties agree that they and each of them shall not discriminate against any employee because of membership or non-membership in the Sunnyvale Employees Association (SEA), or because of any authorized activity on behalf of the SEA, or because of the exercise of rights under this agreement.
- A11.3 The Sunnyvale Employees Association supports in full the City's Equal Employment Opportunity Program.
- A11.4 The parties recognize that the employer may be required to make certain accommodations to carry out its obligations under the Americans with Disabilities Act (ADA). Some of these accommodations may require actions which are contrary to the language or intent of existing provisions of this agreement. The parties agree that such accommodation shall not constitute a "past practice" or waiver by either party to its right to fully enforce such provisions in the future with regard to persons not subject to the protections of the ADA. Recognizing that circumstances surrounding ADA compliance in individual cases necessarily involve matters which are personal and require the utmost confidentiality, specifics of an individual case shall not be divulged by the City. This section, A11.4, shall not be grievable or arbitrable.

ARTICLE A12- (Purposely left blank)

ARTICLE A13 - RENEGOTIATIONS

- A13.1 In the event either party hereto desires to negotiate a successor Memorandum of Understanding, such party shall serve upon the other during the period from 180 days to 150 days prior to the termination date of the MOU, its written request to commence negotiations as well as its initial written proposals to modify the current MOU.
- A13.2 The negotiations shall begin as soon as practical after receipt of such written notice and proposals, but no later than 90 days prior to the termination date of the MOU.

CHAPTER B - WAGES

ARTICLE B.1 SALARIES

ARTICLE B1.1- SURVEY BENCHMARKS

The following cities will be used as benchmark communities for all SEA classifications except those specified in B1.2 & B1.3.

Alameda	Palo Alto
Fremont	Richmond
Hayward	Santa Clara
Milpitas	San Leandro
Mountain View	San Mateo

B1.2 The following agencies will be used as benchmark communities for the classifications within the Water Pollution Control Plant benchmark classes:

Dublin/San Ramon Services District
City of Palo Alto
City of Hayward
Cities of San Jose/Santa Clara
City of San Leandro
South Bay Systems Authority
Union Sanitary District

B1.3 The following agencies will be used as benchmark communities for the Employment Development Aide classification in the Department of Employment Development:

Alameda Private Industry Council (PIC)
City of Richmond PIC
Contra Costa County PIC
San Francisco City/County PIC
San Mateo County PIC
Santa Clara County PIC

B1.4 The following benchmark classifications shall be surveyed as specified in Chapter B. Article 1:

Accountant
Administrative Aide
Associate Planner
Building Inspector/Coordinator
Buyer
Civil Engineer
Employment Development Aide
Environmental Chemist II
Equipment Mechanic
Hazardous Materials Inspector
Leisure Services Coordinator I
Librarian
Programmer Analyst
Staff Office Assistant
Utility Worker
Water Pollution Control Operator

B1.5 Effective August 8, 1999, the salaries for the benchmark classifications listed in Exhibit A shall be increased by the percentages indicated in column 2, below.

[(1)]

[(2)]

	Required % Adjustment To Market	% Salary Increase Adjusted for EPMC*
Accountant	8.91%	8.17%
Administrative Aide	7.35%	6.61%
Associate Planner	6.65%	5.91%
Building Inspector/Coordinator	4.42%	3.68%
Buyer	9.26%	8.52%
Civil Engineer	4.79%	4.05%
Employment Development Aide	8.85%	8.11%
Environmental Chemist II	4.53%	3.79%
Equipment Mechanic	7.08%	6.34%
Hazardous Materials Inspector	5.71%	4.97%
Leisure Services Coordinator I	1.52%	.78%
Librarian	8.30%	7.56%
Programmer Analyst	7.72%	6.98%
Staff Office Assistant	3.89%**	3.15%**
Utility Worker	7.95%	7.21%
Water Pollution Control Operator	8.28%	7.54%

* Employer Paid Member contribution. SEA shared cost of .74% deducted.

** Includes additional 2% salary increase for pay equity as indicated in B1.12 below.

B1.6 Special Studies

- a. The City agrees to replicate the survey methodologies used in 1997 to update the salary/compensation for the Programmer classifications (PROGRAMMER ANALYST, SENIOR PROGRAMMER ANALYST OR PRINCIPAL PROGRAMMER ANALYST) as soon as possible after the ratification of this MOU.

In addition, if, during the term of this agreement, the City experiences recruitment or retention problems for the Programmer Analyst classifications the City will undertake additional special total compensation surveys to update the salaries for these classifications.

- b. The City also agrees to conduct a review of the appropriate internal relationships of the SENIOR CIVIL ENGINEER to other classes within their benchmark cluster.
- c. The City agrees to review the job matches used in the Leisure Services Coordinator I benchmark survey with the City of Santa Clara job match to determine if the appropriate match has been utilized.
- d. These reviews (a – c) are to be completed during the term of this agreement. The City will make every attempt to complete these studies within one (1) year from the date of ratification of this MOU.

B1.7 Salary Adjustments In Years Two Through Five

Salaries for the second through fifth years will be adjusted effective the first pay period in July of 2000, 2001, 2002, and 2003, respectively, pursuant to the total compensation formula described below.

B1.7.1 Survey

The parties shall jointly conduct an annual survey for the purpose of determining the market average total compensation for each benchmark classification identified in Exhibit A. The appropriate survey jurisdictions for each benchmark classification shall include the cities/agencies listed in Article B1 for that classification. The survey shall be conducted during the first 15 days of July each year ("the window period"), and shall take into account all known salary adjustments effective through July 15. All compensation data shall be reflected as monthly rates. The survey data shall be available for review by the parties prior to

implementation of salary adjustments.

B1.7.2 Survey Items

The calculation of market average total compensation shall be based on the following items of compensation only:

- B1.7.3 The top-step monthly base salary in effect during the window period;
- B1.7.3.1 City-paid employee PERS contribution, if applicable;
- B1.7.3.2 PERS employer contribution rate for “normal cost”;
- B1.7.3.3 The survey agencies payment for Social Security, if applicable;
- B1.7.3.4 The survey agencies payment for deferred compensation, i.e., a program that allows employees to defer income and the payment of income taxes on deferred amounts, if applicable;
- B1.7.3.5 The survey agencies' payment for the maximum dollar amount paid for medical insurance;
- B1.7.3.6 The survey agencies' payment for the maximum dollar amount paid for dental insurance;
- B1.7.3.7 The survey agencies' payment for the maximum dollar amount paid for vision insurance;
- B1.7.3.8 The survey agencies payment for Employee Assistance Program (EAP), i.e., a confidential counseling program designed to assist employees and/or their families in solving problems that are affecting their personal lives and/or employment situations;
- B1.7.3.9 The survey agencies payment for life insurance, and accidental death and dismemberment insurance;
- B1.7.3.10 The survey agencies payment for long term disability insurance.

B1.8 Methodology

The required adjustments to salaries for Sunnyvale employees shall be calculated by the following three-step process:

B1.8.1 Determine Market Average Total Compensation

Determine the average market total compensation for each given benchmark classification in the relevant survey jurisdictions. This calculation is performed by adding: (1) the top-step base salary; (2) the value of employer-paid retirement benefits; and (3) the maximum dollar amount paid by the employer for medical, dental, vision, life, EAP and LTD. (The value of employer-paid retirement benefits is calculated by multiplying the top-step base salary by the percentage rates required for PERS employer contribution rate for City-paid employee contribution, PERS “normal cost,” Social Security, and deferred compensation, and then adding the results of those calculations.) The average market total compensation for each benchmark classification is determined by aggregating the results of this calculation for all survey jurisdictions and dividing this aggregate amount by the number of jurisdictions. The result is the “Average Market Total Compensation – Excluding Sunnyvale.”

B1.8.2 Determine Sunnyvale Total Compensation

Determine the total compensation paid to Sunnyvale employees in each benchmark classification by the method outlined in B1.8, Methodology, above. The result is the “Sunnyvale Current Total Compensation.”

B1.8.3 Determine Required Adjustment To Sunnyvale Total Compensation

Determine the required adjustment to Sunnyvale’s current total compensation for each benchmark

classification by identifying the amount required to increase Sunnyvale's top-step monthly base salary so as to equal the average market total compensation once all of the intermediary computations are calculated. Ultimately, Sunnyvale's new total compensation shall equal the average market total compensation for the period stipulated.

B1.9 PERS

B1.9.1 Sunnyvale's PERS rate shall be reflected as the current PERS normal cost plus eight percent (8%) for the employee's contribution, subject to change as specified in Article C5.2.

B1.9.2 The EPMC at .74% will continue to be deducted until the appropriate recalculation is done through the PERS process, and it is estimated that will occur on or by July 2002.

B1.10 Modifications To Formula Regarding Percentage Above Market Average

B1.10.1 Effective the first pay period including July 1, 2000, the salary for each benchmark classification shall be increased to market average as calculated pursuant to the total compensation formula detailed in Article B1.8.

B1.10.2 Effective the first pay period including July 1, 2001, the salary for each benchmark classification shall be adjusted to market average as calculated pursuant to the total compensation formula detailed in Article B1.8, plus 1%, after deleting the lowest paid benchmark city/agency for that classification. In no case will the lowest paid city/agency be deleted if the deletion would result in a survey consisting of less than five cities/agencies.

B1.10.3 Effective the first pay period including July 1, 2002, the salary for each benchmark classification shall be adjusted to market average as calculated pursuant to the total compensation formula detailed in Article B1.8, plus 1.5%, after deleting the lowest paid benchmark city/agency for that classification. In no case will the lowest paid city/agency be deleted if the deletion would result in a survey consisting of less than five cities/agencies.

B1.10.4 Effective the first pay period including July 1, 2003, the salary for each benchmark classification shall be adjusted to market average as calculated pursuant to the total compensation formula detailed in Article B1.8, plus 2%, after deleting the lowest paid benchmark city/agency for that classification. In no case will the lowest paid city/agency be deleted if the deletion would result in a survey consisting of less than five cities/agencies.

B1.11 Groundworker

Effective August 8, 1999 the Groundworker classification will receive a 2.5% internal salary adjustment in addition to the increases specified above.

B1.12 Staff Office Assistant

In addition to any market survey salary increase produced by the total compensation formula, the Staff Office Assistant benchmark class grouping shall continue to receive an additional 2% salary increase for pay equity.

B1.13 LIBRARIAN: The City agrees that the hourly rate for the full time Librarian classification will not fall below the hourly rate for the part time Librarian classification.

ARTICLE B2 - OVERTIME

B2.1 An employee who is required and authorized by management and who actually works overtime shall be compensated at one and one-half times his/her base hourly rate for all such overtime work.

B2.2 Overtime shall be defined as:

- B2.3 all hours worked in excess of eight (8) hours worked in a workday, or
- B2.4 all hours worked in excess of nine (9) hours worked in a workday if the employee is working on a nine (9) hour day schedule, or
- B2.5 all hours worked in excess of ten (10) hours worked in a workday if the employee is working on a ten (10) hour day schedule, or
- B2.6 as provided in a written special schedule agreement established according to provisions of Section 6.200 of the City's Salary Resolution, and
- B2.7 all hours worked in excess of forty (40) hours worked in a workweek.
- B2.8 The City shall define the work period for purposes of overtime.
- B2.9 An employee who works on a holiday shall be compensated at the overtime rate for all hours worked on the holiday in addition to eight (8) hours holiday pay.
- B2.10 All paid time shall count as time worked when determining overtime (See Exhibit B).

ARTICLE B3 – OUT-OF-CLASS PAY

- B3.1 Effective the first full pay period following ratification of the MOU by SEA and the City Council, employees who are assigned to work in a higher classification and work in such classification for three (3) or more consecutive work days shall be compensated at five percent (5%) above the employees' normal pay or the first step of the higher level position, whichever is greater. Out-of-class assignments will be made on an as needed basis and in accordance with past practice.
- B3.2 If, when the out-of-class assignment is made the supervisor knows the assignment will last longer than three (3) consecutive work days, then the out-of-class pay shall begin immediately.
- B3.3 Such out-of-class assignment pay shall be based on actual hours worked during the out-of-class assignment and received for the full period of time in which the employee works in the out-of-class assignment or any management or supervisory class, and provided that such higher assignment has been authorized by the incumbent's supervisor.

ARTICLE B4 - TRANSLATOR/BILINGUAL PAY

- B4.1 Effective the first pay period following ratification of the MOU, employees shall be entitled to receive, in addition to their regular compensation, sixty dollars (\$60.00) per month, (i.e., twenty seven dollars and sixty-nine cents [\$27.69] per pay period) for Translator/Bilingual skills if they meet the following criteria:
- B4.2 Certification from the City that the employee possess the needed language skills;
- B4.3 Certification by the director of the department that the particular assignment of the employee involves need for the required skills on a regular basis.
- B4.4 Qualifying languages are: Chinese, Japanese, Sign Language, Spanish, Tagalog (Filipino), Thai, Vietnamese, Farsi and other language(s) deemed appropriate by the City.
- B4.5 The certifications required and obtained above will not necessarily follow an employee if transferred or promoted.

ARTICLE B5 - HAZARDOUS DUTY PAY

- B5.1 Employees who regularly perform any of the duties listed below shall be paid two percent (2%) over their

regular pay for full pay periods in which such work is performed as a part of the employee's regular assignment:

- B5.2 Use of high climbing rope for tree trimming work;
- B5.3 Use of mechanical, hydraulic or pneumatic boom equipment for high electrical or mechanical work;
- B5.4 Use of climbing equipment for high pole work;
- B5.5 Repair of knockdowns in which there is potential contact with high voltage electrical wires;
- B5.6 Operation of the stinger crane (vehicle # 507) when there is potential contact with high voltage electrical wires;
- B5.7 Work in confined spaces as determined by the City, except as performed by employees in the water pollution control series.
- B5.8 Confined space is a space defined by the concurrent existence of the following conditions:
 - B5.9 Existing ventilation is insufficient to remove dangerous air contamination and/or oxygen deficiency which may exist or develop.
 - B5.10 Ready access or egress for the removal of a suddenly disabled employee is difficult due to the location and/or size of the opening.
 - B5.11 Dangerous Air contamination" and "oxygen deficiency" are used as defined in Title 8, Article 108, Section 5156 of the California Occupational Safety and Health Code.
 - B5.12 As used in this Article, "high" means that the nature of the work requires the employee to operate at a height above the ground that presents a danger of injury from a fall.

ARTICLE B6 - STANDBY DUTY AND COMPENSATION

- B6.1 Standby duty is defined as that circumstance which requires the employee so assigned to:
 - B6.2 Be ready to respond in a reasonable time to calls for her/his service;
 - B6.3 Be readily available at all hours by telephone, or other communication devices, and
 - B6.4 Refrain from activities which might impair her/his assigned duties upon call.
- B6.5 Standby duty shall be assigned by management in writing; and
 - B6.6 Shall be compensated at the rate of 0.7 hours at the overtime rate for each eight (8) hours of standby duty worked; plus
 - B6.7 Two (2) hours compensation at the overtime rate on completion of fourteen (14) consecutive eight (8) hour periods of standby duty.
 - B6.8 On holidays, standby shall be compensated at the rate of 1.5 hour at the overtime rate for each eight (8) hours of standby duty worked.

ARTICLE B7 - CERTIFICATION PAY

- B7.1 Upon presentation to the Department of Human Resources of the letter of notification from the State Water

Resources Control Board that the appropriate Water Pollution Control Operator certification examination has been passed, the City shall adjust the pay of the employee for the following pay period in accordance with the Salary Resolution, effective the date of passing the Certification Examination, provided that the date of passing the exam is not more than 60 calendar days preceding the date of presentation of the notice to the Department of Human Resources. For exam passing dates more than 60 days prior to presentation to the Department of Human Resources, the effective date of pay adjustment is the start of the following pay period.

ARTICLE B8 – CALL-OUT DUTY AND COMPENSATION

- B8.1 An employee who is assigned to standby duty pursuant to Article B6 - Standby Duty and Compensation, and is directed to return to work shall be compensated for actual work performed or by a minimum payment of 1.4 hours at the overtime rate.
- B8.2 Upon completion of a call-out assignment, any new call-out will be compensated as a separate call-out regardless of the location of the employee when he/she receives the new call-out.
- B8.3 If a new call-out is received prior to the completion of the previous call-out assignment, the new call-out will be considered a continuation of the previous call-out, and no additional minimum shall apply.
- B8.4 When assigned to standby duty on a holiday, the call-out minimum shall be 2.0 hours at the overtime rate.

ARTICLE B9 - CALL BACK PAY

- B9.1 An employee who is not on standby duty pursuant to Article (B) 6, and who has completed his/her work day and has left his/her work site and is ordered to return to duty following the employee's normal work day ("called back"), shall receive call back pay for actual work performed or a minimum payment of two (2) hours at the overtime rate if each of the following conditions is met:
 - B9.2 The order to return to work occurs following the termination of his/her normal work shift on the day the return is required,
 - B9.3 The return is necessitated by unanticipated work requirements, and
 - B9.4 The employee actually returns to work.
- B9.5 An employee who receives a "call back minimum" and who leaves work, shall not receive another "call back minimum" if they are again called back to work within two (2) hours of the previous call back.
- B9.6 An employee who is ordered to begin his/her shift up to two (2) hours prior to his/her normal starting time shall not be eligible for call back pay for that early call back.

ARTICLE B10 – COURT PAY

When scheduled to appear in court on his/her regularly scheduled day off, an employee shall modify his/her work schedule so that the City-related court duties occur during the employee's work time. In those situations where the work schedule cannot be modified, an employee shall receive a minimum of four (4) hours at the overtime rate if the following conditions are met:

Call back is for court duty only:

The call back occurs either during the employee's scheduled day off, or

Between shift duty for employees scheduled on the graveyard shift. For the purpose of this article, the graveyard shift is defined as any shift beginning between 7:00 p.m. and 12:00 midnight.

ARTICLE B11 - EMERGENCY OVERTIME FOR EMPLOYEES COVERED BY DOT REGULATIONS

Employees who are assigned to emergency overtime and are covered by the Department of Transportation's Drug and Alcohol testing provisions are required to have eight (8) consecutive hours of rest prior to returning to work after completion of the emergency work assignment. In this case, the employee shall be paid at his/her regular base rate of pay while at rest during the hours of that employee's next regular shift up to a maximum of eight (8) hours.

CHAPTER C - BENEFITS

ARTICLE C1 - INSURANCE

C1.1 Insurance Plans

The City shall continue to provide group medical, dental, vision, Employee Assistance Program and optional life insurance plans. Any health plans for which the City contracts directly with the provider, prior to changing the provider or the level of benefits, the City shall first give the Association the opportunity to meet and consult concerning such changes.

C1.2 City Contribution

Effective the first day of the first full pay period in January 2000, the City shall contribute two hundred seventy-three dollars and ninety-six cents (\$273.96) per pay period toward medical, dental, vision, Employee Assistance Program and optional life insurance.

C1.3

Effective the first day of the first full pay period in January 2001 the City shall increase its contribution toward medical, dental, vision, Employee Assistance Program and Optional Life insurance by fifteen dollars (\$15.00) per pay period to a total of two hundred eighty-eight dollars and ninety-six cents (\$288.96) per pay period.

C1.4 Premium Conversion

The City agrees to continue to provide employees with an option to pay their insurance premium contributions on a pre-tax basis, as provided in the Internal Revenue Code.

C1.5 Cash Incentive

The City will continue to provide employees with the option of reducing their medical coverage and receiving payment of a portion of what otherwise would be the City contribution.

To be eligible for this plan, an employee must either:

1. Change from full family to employee plus one or employee only;
2. Change from employee plus one to employee only,
3. Change from any level coverage to no coverage; or
4. A new employee may choose no coverage.

Payment shall be made on the following schedule, effective first full pay period in July 2000:

<u>CURRENT</u>	<u>NEW</u>	<u>PER PAY PERIOD</u>	<u>MONTHLY</u>
E + 2	None	\$98.50	\$213.00
E + 2	E	\$60.50	\$131.00
E + 2	E + 1	\$22.50	\$ 48.75
E + 1	None	\$76.00	\$164.67
E + 1	E	\$38.00	\$ 82.33
E	None	\$38.00	\$ 82.33
NEW	None	\$38.00	\$ 82.33

If the employee is currently a dependent of a City employee and covered by a PERS Health Plan, the employee is not eligible for reimbursement.

This incentive schedule will be in effect through June 30, 2002 and will be reviewed on the first full pay period which includes July 1, 2002.

Whenever an employee changes to no coverage, the employee shall provide proof of alternate coverage and sign a waiver stating that she or he does have alternative coverage and that she or he understands that he or she will no longer receive coverage through a City sponsored PERS provided medical plan.

If an employee decides to increase his or her level of coverage by either reentering a City sponsored PERS provided medical plan or including a dependent in his or her current coverage, he or she must submit a health statement for the provider's approval or enroll during the annual open enrollment period.

Procedures for exercising this option and for reentering the City sponsored PERS provided medical plans shall be established by the City.

ARTICLE C2 - DENTAL AND VISION INSURANCE

C2.1 Dental Insurance

Dental insurance through the Met Life Plan or United Concordia will continue to be provided. Effective April 1, 2000, the dental coverage for Type C services will be increased from 50% to 75% under the Met Life Plan or its successor.

C2.2 Dual Dental Coverage

If a husband and a wife are represented by different bargaining groups, dual coverage under the dental plans offered for each bargaining group will be allowed. Dependents may be covered under one or both dental plans. Coordination of benefits by the dental providers will be made pursuant to current industry standards.

C2.3 Vision Insurance

Vision insurance through the Vision Service Plan (VSP) will continue to be provided with a deductible that the employee must pay at the time of service.

C2.4 City contributions for dental and vision insurance shall be as provided in Article C1.

ARTICLE C3 - DOMESTIC PARTNERS

SEA and the City agree to reopen the MOU, if and when the City Council implements a domestic partner policy, to discuss the effect, if any, on benefits for SEA represented employees at that time.

ARTICLE C4 - LIFE, AD&D AND INCOME PROTECTION INSURANCE

C4.1 The City shall provide Life and Accidental Death and Dismemberment Insurance for each employee in an amount equal to that employee's base annual income.

C4.2 Such insurance shall be at no cost to the employee, except that, insurance amounts above \$50,000.00 provided by the City shall be subject to tax law provisions.

C4.3 At the time of hire, an employee may purchase additional insurance in an amount equal to the coverage provided by the City and at the same rate the City pays.

C4.4 Current employees may purchase additional insurance as provided in 4.3 above, subject to approval by the carrier.

C4.5 The City shall also provide long term disability insurance that provides 2/3 of the employee's base annual income to a maximum of \$7,500.00 per month of paid benefits.

ARTICLE C5 – RETIREMENT

C5.1 The City agrees to continue the current “payment” plan whereby the City makes a contribution to PERS on behalf of the employee.

C5.2 The City shall contribute seven percent (7%) of salary for the employee's “basic” contribution, and one percent (1%) to reflect the cost of the “single highest year” retirement benefit.

The City will review the PERS Actuarial study of the costs associated with a contract amendment to shift the cost of the single highest year option to the employer and to reduce the employee contribution from 8% to 7%. The City will then implement this amendment and thereafter utilize 7% as the employee share in the total compensation formula.

The City agrees to implement the PERS contract amendment as expeditiously as possible, with the objective of having the contract implemented by July 1, 2000, assuming the necessary actuarial report has been prepared and the necessary formal action of the Council has been taken.

C5.3 The City's payment of employees' PERS contribution is based upon authority from PERS and upon tax treatment permitted by the Internal Revenue Service under Internal Revenue Code Section 414 (h) (2) and revenue rulings related thereto, and by the California Franchise Tax Board. It is understood that the State Legislature or Congress may alter the statutory authority for this tax treatment, and the Franchise Tax Board, or the IRS or the United States Department of Treasury may alter the current revenue rulings, either by other rulings or regulations.

C5.4 The City shall adopt the necessary resolutions and obtain written confirmation of compliance from PERS to report the value of employer paid member contributions (EPMC) of seven percent (7%) as additional compensation for each SEA unit member in the City effective retroactive to August 8, 1999.

C5.5 The City has contracted with PERS to provide for miscellaneous employees, including employees in this Unit, the retirement formula commonly called, "Local Miscellaneous 2% @ 55".

In addition, the City has contracted with PERS to provide Level III of the 1959 Survivor Benefit which is applicable to employees in this Unit.

C5.6 The City shall amend its contract with PERS to provide the Military Buy-Back Option. This benefit will be adopted as soon as administratively possible after ratification of this MOU.

C5.7 Uniforms

Each employee required by the City to wear a uniform, and who actually wears the uniform during works hours, shall receive a uniform in a manner determined by the employee's department or division. A uniform is defined as clothing which is a ready substitute for personal attire the employee would otherwise have to acquire and maintain. This provision excludes items that are for personal health and safety. A standardized value, as determined by the City, for qualified uniforms shall be reported as "special compensation" as required by PERS procedures for all SEA employees as set forth here.

C5.8 PERS Contribution for Hazardous Materials Coordinator/Fire Protection Engineer in Safety Retirement

The City agrees to pay the following additional amounts for the Hazardous Materials Coordinator and Fire Protection Engineer already covered by the PERS 2% @ 50 Plan:

- a. One percent (1%) effective the first pay period including July 1st, 1999;
- b. One percent (1%) effective the first pay period including July 1st, 2000;
- c. One and a quarter percent (1.25%) effective the first pay period including July 1st, 2001

ARTICLE C6 - DEPENDENT CARE

C6.1 The City shall continue to provide a plan in accordance with the Internal Revenue Code Section 129 allowing employees to qualify for pre-tax dependent care savings.

ARTICLE C7 - VACATION

Annual Accrual

C7.1 Employee shall accrue vacation leave based upon the following schedule effective July 1, 1999:

3.4 hours per pay period for employees with 130 or fewer pay periods of continuous service.

5.0 hours per pay period for employees with 131-260 pay periods of continuous service.

6.5 hours per pay period for employees with 261-520 periods of continuous service.

7.0 hours per pay period for employees with 521-650 periods of continuous service.

8.0 hours per pay period for employees with 651 or more pay periods of continuous service.

Maximum Accrual

C7.2 The maximum accrual of vacation shall be 400 hours. There shall be no accrual over 400 hours.

Use of Vacation Leave

C7.3 Use of vacation leave shall be subject to approval by the employee's supervisor.

C7.4 No minimum usage per year is required. Employees are strongly urged to plan and take a substantial portion of their accrued vacation time.

Vacation Extension

C7.5 City will allow up to one week of leave without pay per calendar year for the purpose of extending vacation, if approved in advance by proper authority and if all the employee's leave accruals have been exhausted. Such leave shall be taken on days immediately succeeding the date on which the employee has exhausted his/her last day of accrued vacation leave.

C7.6 There will be no vacation leave accrued for the pay period in which such leave without pay is taken.

Leave Without Pay

C7.7 Effective June 29, 1974 vacation accrual began as follows:

The ratio of authorized leave without pay to 80 hours to the nearest one-tenth of an hour as shown in the following example:

Assume 8 hours of authorized leave without pay is taken in an 80-hour pay period. Further assume the employee is at the maximum vacation accumulation per pay period.

$$\begin{array}{l} 72 \text{ work hours} \\ \hline 80 \text{ pay period hours} \end{array} * 100 = 90 \% ;$$

6.4 is the maximum vacation accumulation per pay period; therefore,

$$90 \% * 6.4 = 5.76 \text{ rounded to } 5.8 \text{ hours.}$$

This employee will accumulate 5.8 hours of vacation during this particular pay period.

C7.8 Leave Policy

The City agrees to change the Administrative Policy so that deductions from leave accruals for an unexcused leave without pay will be the same as an excused leave without pay. The Administrative Policy will be changed as soon as it is feasible after the ratification of this agreement.

ARTICLE C8 - HOLIDAY LEAVE

C8.1 The City designated holidays are indicated in the chart below:

HOLIDAY	ACTUAL DATE	OBSERVANCE
New Year's Eve New Year's Day	December 31 st January 1 st	If the 1 st of January falls on a Saturday, the holiday will be observed on the Thursday and Friday prior to New Year's Day; and if the 1 st of January falls on Sunday, the holiday will be observed on Friday and Monday. If New Year's Eve falls on Sunday and New Year's Day on a Monday, then the holiday will be Friday and Monday.
Martin Luther King Jr. Day		3 rd Monday in January (Observed)
Presidential Day		3 rd Monday in February (Observed)
Memorial Day		Last Monday in May (Observed)
Independence Day	July 4 th	If the 4 th of July falls on a Saturday, the holiday will be observed on the Friday prior to Independence Day; and if the 4 th of July falls on a Sunday, the holiday

		will be observed on the following Monday.
Labor Day		1 st Monday in September
Thanksgiving Day		Last Thursday in November (except for year 2000 and 2001 when it falls on the fourth Thursday of the month)
Day after Thanksgiving		Friday after the last Thursday in November (except for year 2000 and 2000 when it falls on the fourth Friday of the month)
Christmas Eve Christmas Day	December 24 th December 25th	If the 25 th of December falls on a Saturday, the holiday will be observed on the Thursday and Friday prior to Christmas Day; and if the 25th of December falls on a Sunday, the holiday will be observed on Friday and Monday. If Christmas Eve falls on Sunday and Christmas Day on a Monday, then the holiday will be Friday and Monday.

Should unforeseen circumstances occur that require change to the above holiday dates, the holiday(s) will be observed as designated by the City Council.

C8.2 Floating Holidays

Employees shall be credited with twenty (20) hours of floating holiday leave on the first day of the first pay period in the payroll calendar year.

C8.3 Newly hired employees shall be credited with a pro-rata share of floating holiday hours, based upon the proportion of the calendar year remaining after their date of hire.

C8.4 Use of floating holiday leave shall be subject to approval by the employee's supervisor.

Separation

C8.5 Employees separating City employment shall have their allotment of floating holiday leave for that year pro-rated based upon their date of separation.

C8.6 Any employee who has used less than his/her pro-rated allotment for the portion of the calendar year worked, shall have the balance paid to them on their final paycheck.

C8.7 Any employee who has used more than his/her pro-rated allotment for the portion of the calendar year worked, shall have the overage deducted from their final paycheck.

C8.8 Unused Hours

Any employee who has unused floating holiday hours at the end of the payroll calendar year, has the option of having all of the unused hours either paid in cash or added to his or her vacation balance, if such addition does not exceed the maximum accrual provided in Article C7, Vacation.

C8.9 Library Employees

For holidays observed by the City, Library employees shall be assigned to work the holiday by first asking for volunteers and then by filling the remaining needed assignments by rotating equally among all qualified employees.

ARTICLE C9 - BEREAVEMENT LEAVE

C9.1 An employee shall be entitled to bereavement leave with pay in an amount not to exceed forty (40) work hours for each death occurring to a person on the list below.

C9.2 To qualify for bereavement leave the death must occur to an employee's spouse, father, mother, son, daughter, brother, sister, grandparent, or grandchild, or to the father, mother, son, daughter, brother, or sister, grandparent or grandchild of an employee's spouse.

ARTICLE C10 - DISABILITY LEAVE INCENTIVE PAY (See Exhibit D)

C10.1 Each January during the term of this MOU, the City will share disability leave savings with Unit employees

who were employed the previous full calendar year.

- C10.2 The savings will be calculated as follows:
- C10.3 Total usage will be calculated by adding individual usage for Workers' Compensation and disability for the previous calendar year.
- C10.4 Average usage will be calculated based on the number of full-time equivalent employees (FTE) in the Unit. The number of FTEs will be calculated by totaling all paid hours for the year, except overtime, and dividing by 2080 hours.
- C10.5 If the average use of Workers' Compensation and disability leave for the previous year by all unit employees is less than 70 hours, then there is a savings to be shared.
- C10.6 If there is a savings to be shared, then such savings shall be shared as follows:
- C10.7 Only those employees whose individual leave usage is less than the previous year's average will be eligible to receive an incentive payment.
- C10.8 An eligible employee shall receive incentive payment in direct proportion to his/her leave usage in the previous year. The smaller the leave usage, the larger the share of the savings.
- C10.9 Payment will be in the month of January and will be based on the average hourly rate, excluding overtime, for Unit employees.
- C10.10 The share of the savings distributed to Unit members shall increase as the average usage decreases as follows:

<u>HOURS OF AVERAGE USAGE</u>	<u>% OF SAVINGS DISTRIBUTED</u>
70 down to 67.1	25 %
67 down to 64.1	35 %
64 or fewer	45 %

ARTICLE C11 - ADDITIONAL BENEFITS

- C11.1 The following employee benefits, as they are set forth in the City's Salary Resolution, are included by reference in this Agreement:

Leave Benefits
Leave Authorization
Leave Benefits; To Whom Applicable
Leave Payment
Leave Substitution
Special Schedule - Holiday Leave
Jury Leave
Military Leave
Medical Appointment Leave
Workers' Compensation Benefits

- C11.2 These benefits, as they currently appear in the Salary Resolution, are attached as Exhibit C.

ARTICLE C12 - DISABILITY LEAVE

- C12.1 Disability Leave Entitlement, Disability Leave Provisions, and Disability Authorization as they are set forth

in the City's Salary Resolution are included by reference in this agreement and shall remain in full force and effect for the duration of this agreement.

ARTICLE C13- TUITION REIMBURSEMENT

- C13.1 Employees are eligible for tuition reimbursement as provided in the City's Personnel Policies, except that the maximum amount allowable for books shall be \$100 per quarter or semester for courses directly related to the employee's present position or promotional position and \$50 per quarter or semester for courses required for a related degree.

ARTICLE C14- CITY-WIDE EMPLOYEE EMERGENCY LEAVE RELIEF FUND

- C14.1 The City-Wide Employee Emergency Leave Relief Fund is a program that allows an employee who has leave hours accrued, the opportunity to donate a portion of his/her accrued leave to benefit another employee needing paid emergency leave.
- C14.2 To benefit from this fund, the receiving employee must be eligible to accrue City paid leave time, must have used all available accrued leave and must have a personal emergency that requires the employee to be on leave from work responsibilities to attend to the emergency.
- C14.3 To receive relief hours from the Fund, the employee, a member of the family or a friend, must submit a written request to the City Manager or designee stating the hours needed and briefly explaining the circumstances of the emergency requiring use of hours from the Fund.
- C13.4 Rules and procedures defining the use of this Fund shall be promulgated by the City Manager or his/her designee.

CHAPTER D - HOURS

ARTICLE D1 - FAMILY EMERGENCY LEAVE

- D1.1 Employees are entitled to paid emergency family leave not to exceed eight (8) work hours during a standard workday subject to the following conditions:
- D1.2 Emergency family leave may be authorized for sudden illness or disability of spouse or child requiring immediate attention at home, the doctor's office or at the hospital.
- D1.3 Emergency family leave shall not be authorized for:
 - D1.4 disability beyond the emergency;
 - D1.5 routine illness or disability (colds, headache, etc.);
 - D1.6 family medical appointments for continuing illness or disability, if for routine care;
 - D1.7 emergency care of family other than spouse or child;
 - D1.8 attendance at hospital with spouse or child for scheduled surgery or routine hospitalization;
 - D1.9 scheduled delivery of spouse or child to hospital; or
 - D1.10 child care during spouse's scheduled medical visits.

ARTICLE D2 - COMPENSATORY TIME OFF

- D2.1 Compensatory time off may be authorized by Management for employees in lieu of cash compensation for overtime.
- D2.2 Such compensatory time shall be paid at the rate of time-and-one-half for each hour of overtime.
- D2.3 During the twelve month period of approximately April 1st through March 31st, an employee may not have current credit for more than one hundred (100) hours of compensatory time off.
- D2.4 Compensatory time off shall not be paid except as provided in D2.7 below or upon termination of the employee.
- D2.5 Such compensatory time off may be used with 48 hours advance supervisory approval in the same manner as vacation except that no approval may be given if use will result in requiring other personnel to work on a relief overtime basis.
- D2.6 An employee may carry over a maximum of fifty (50) hours of compensatory time off from one twelve month period to the next.
- D2.7 At the end of the first full pay period in April of each year, unused compensatory time in excess of fifty (50) hours shall be paid at the employee's rate of pay on the check issued in that pay period.
- D2.8 In the case of the Leisure Services Coordinators I/II/Senior, the same provisions apply except that, with Management authorization, they may accrue 200 hours of compensatory time during a calendar year.

ARTICLE D3 (Purposely left blank)

ARTICLE D4 - TESTING FOR CITY VACANCIES

- D4.1 Any employee represented by SEA, who desires to test for a position advertised and posted by the City, if such a position represents a promotion or lateral transfer, shall be entitled to time off without loss of pay for the period required to take any and all parts of the testing process. Each employee is allowed to exercise this prerogative twice per year.

ARTICLE D5 - SPECIAL WORK SCHEDULE

- D5.1 An employee (s) may request an alternative work schedule (s) based on the guidelines found in the City's Personnel Policies at Article IV, Section 9, Work Schedules.
- D5.2 Section 9 specifically allows the establishment of alternative work schedules, including flextime schedules. Section 9 also requires that the City establish schedules that are attentive to the needs of individual employees while also assuring prompt, efficient and cost effective public service.
- D5.3 In addition to the present provisions for special schedules for individual employees, the following provisions are made for special schedules for shift personnel at the Water Pollution Control Plant:
- D5.4 A special schedule of varying hours in a bi-weekly pay period may be implemented for all shift personnel (WPCOs, WPCO/ITs and Sr. WPCOs) upon approval of two thirds (2/3) of the work group, the Department Director and the City Manager.
- D5.5 A special work schedule implemented according to the above procedure may be terminated at the end of a pay period by the City Manager, the Department Director, or upon 2/3 vote of the affected shift personnel upon three (3) weeks written notice to each other.
- D5.6 The City agrees to consider the needs and desires of employees requesting a special schedule. If the City denies a request for a special schedule, then the City will give the employee(s) the reasons for the denial in writing.

ARTICLE D6 - REDUCTION IN FORCE

- D6.1 If the City implements a reduction-in-force that effects employees in the General Employee Unit (Unit), it will administer its personnel policies at Article VIII, Section 4 consistent with the following concepts:
- D6.2 SENIORITY: Seniority is determined by total pay periods of service with the City, regardless of classification in which employed.
- D6.3 BUMPING: Employees identified for layoff shall have bumping rights to their current or previously held classification within the Unit based on seniority as defined in 6.2 above.
- D6.4 Employees wishing to bump must exercise these rights within seven (7) calendar days after receiving written notification of the layoff, otherwise the bumping rights shall automatically terminate.
- D6.5 NOTICE: When the City determines that it must implement a reduction-in-force that effects employees in the Unit, the City shall give the Association reasonable advance notice.
- D6.6 Notice to the employee shall be in writing thirty (30) days prior to the effective date of the layoff.

CHAPTER E - WORKING CONDITIONS

ARTICLE E1- PROMOTIONAL EXAMS

- E1.1 The department shall have the ability to interview and to appoint from among all of the applicants on the Eligible List. In this regard, the following provisions will apply:
- E1.1.1 The department may interview as many or as few people as it desires, subject to the provisions of E.1.1.2, below.
- E1.1.2 Regardless of how many people the department desires to interview per E1.1.1, above, it must include in its interview process the top three SEA -represented employees on the Eligible List.
- E1.2 The parties affirm and accept the City Charter merit system principle.

ARTICLE E2 - RECLASSIFICATION

- E2.1 An employee may submit a request for a reclassification of his or her job to the Department of Human Resources and to his or her supervisor only during the months of February and August of each year.
- E2.2 Such request shall be processed through the department and submitted to the Department of Human Resources. If the Department of Human Resources declines to perform the requested reclassification, then Human Resources shall inform the requesting employee in writing. Human Resources may decline a request for a reclassification of a job that has been studied within the past 24 months, unless the employee justifies such new request.
- E2.3 All reclassification submissions and notifications must comply with the timetable indicated below:

Reclassification Requests	Final Filing Date for Department to submit to Human Resources	Final Date for Written Notifications Declining Requests	Completion Date
Request submitted in February	March 31 st of same year	No later than June 30 th of the same year	18 months after submission date of requests
Requests submitted in August	September 30 th of same year	No later than January 31 st of the following year	18 months after submission date of requests

- E2.4 If the City denies the reclassification of the employee's job, then the City shall give the employee the reasons for the denial in writing.
- E2.5 If the City reclassifies the job, and the employee who submitted the request was eligible to be promoted when the request was filed, the employee shall be appointed to the new position effective the first day of the pay period following the pay period in which the reclassification request was submitted to Department of Human Resources. If the employee was not eligible to be promoted when the request was filed, then the appointment shall be come effective when the employee becomes eligible.

ARTICLE E3 - HEALTH AND SAFETY

- E3.1 City will send the Association a copy of the minutes of the City Safety Committee after each meeting.
- E3.2 City shall make a copy of the Material Data Safety Sheet available to effected employees and provide training so employees will be able to read and interpret these data sheets.
- E3.3 An employee designated by the Association shall be a member of the City-wide Safety Committee.

ARTICLE E4 - JACKETS - WATER POLLUTION CONTROL

- E4.1 It is agreed that the City will provide an insulated wind breaker-type jacket with a zipper front for the Water Pollution Control Plant Operators series and the Water Pollution Control Plant Maintenance Mechanics series. It is further understood that the employees will leave the jackets at the Water Pollution Control Plant when they are off duty.

ARTICLE E5 - SAFETY FOOTWEAR

- E5.1 Each employee required by the City to wear safety footwear (See Exhibit E) shall be required to purchase and wear OSHA-approved safety footwear and shall receive an allowance for the purchase of such footwear.
- E5.2 The allowance for July 1, 1999, shall be two hundred dollars (\$200.00) maximum and may be used for more than one pair of safety footwear.
- E5.3 The allowance shall be paid at the end of the first full pay period in July of each year to those active employees in classes requiring safety footwear.

ARTICLE E6 - TOOL ALLOWANCE

- E6.1 The 2% tool allowance which is included in the base pay for Equipment Mechanics, Equipment Mechanic Assistant, and Lead Equipment Mechanic represents the full compensation for tools, including replacement of lost or broken tools except that verified losses which would be subject of the City's property damage coverage such as losses from fire, break-in & theft, and vandalism are excluded from this limitation.
- E6.2 This provision does not apply to Water Pollution Control Plant Maintenance Mechanics.
- E6.3 The City shall provide a minimum set of tools for each of the employee in the classifications of Plant Maintenance Mechanic and Senior Plant Maintenance Mechanic employed at the Water Pollution Control Plant. This shall be accomplished as provided by the grievance settlement set forth as Appendix B.

ARTICLE E7 - GRIEVANCE PROCEDURE

E7.1 DEFINITIONS

- E7.2 Grievance: A grievance is an alleged misapplication of a specific provision of this MOU, or of a specific provision of the Administrative Policy Manual, City Ordinance, or City Code, or departmental policies, rules or regulations, covering wages, hours or other terms or conditions of employment, which alleged misapplication adversely affects the grievant. The contents of Employee Performance Audits are only appealable as provided in Article E.9. - Disciplinary Appeal Procedure.
- E7.3 Written Grievances: A written grievance is a grievance, as defined above, which has been reduced to writing on a form provided by the City and which shall include the grievant's name, classification, department, immediate supervisor's name; representative's name, if any; the specific section of the MOU, ordinance or code alleged to have been misapplied; a specific description of the alleged grievance with the circumstances supporting the grievant's allegation; and the specific remedy requested to resolve the grievance.
- E7.4 Grievant: A grievant is an employee, a group of employees or the Association. A grievant may file a grievance as defined above. Alleged misapplications which affected more than one employee in a substantially similar manner may, by mutual agreement, be consolidated as a group grievance and thereafter represented by a single grievant.
- E7.5 Work day is defined as Monday through Friday exclusive of holidays as provided in Article C.8., Holiday Leave.

- E7.6 PROCESS
- E7.7 Unwritten Grievance. The grievant shall orally discuss his/her grievance with his/her immediate supervisor in an attempt to resolve the grievance.
- E7.8 The supervisor shall give an oral response to the employee within seven (7) days of the issue being raised by the employee.
- E7.9 Written Grievance.
- E7.10 Level 1: If the grievant is not satisfied with the resolution proposed at the unwritten level, he/she may, within thirty (30) days from the event giving rise to a grievance or from the date the employee could reasonably have been expected to have had knowledge of such event, file a formal written grievance with his/her program manager on a form prepared and supplied by the City.
- E7.11 The program manager shall, within seven (7) workdays from the receipt of the grievance, meet with the grievant and give a written response to the grievant on the original grievance form.
- E7.12 Level 2: If the grievant is not satisfied with the written response from his/her program manager, the grievant may, within seven (7) workdays from the receipt of such response, file a grievance with the division-level manager. Within seven (7) workdays of receipt of the written appeal, such manager shall investigate the grievance, which shall include a meeting with the grievant, and give a written response to the grievant on the original form.
- E7.13 Level 3: If the grievant is not satisfied with the written response from his/her division-level manager, the grievant may, within seven (7) work days from the receipt of the response, appeal the grievance to the Department Director. Within seven (7) work days of receipt of the written appeal, the Department Director or designee shall investigate the grievance, which may include a meeting with the grievant, and give a written response to the grievant on the original grievance form.
- E7.14 Level 4: If the grievant is not satisfied with the written response from the Department Director, the grievant may, within seven (7) work days from the receipt of the response, file a written appeal to the City Manager or designee. Within ten (10) work days of receipt of the written appeal, the City Manager or designee shall investigate the grievance, which shall include a meeting with the grievant, and give a written response to the grievant, which answer shall be final and binding, except as provided in Article E11, Confirmable Arbitration.
- E7.15 General Provisions
- E7.16 The time limits set forth herein above are to be strictly followed. Time limits may be waived only by written agreement signed by the parties.
- E7.17 If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled.
- E7.18 If the original grievance is modified at any step, it shall be considered a new grievance and must be refiled, treated as a new grievance and subject to all procedural considerations, unless modified in writing by mutual consent of the parties.
- E7.19 If a supervisor or manager fails to respond with an answer within the given time period, the grievant may appeal to the next higher level.
- E7.20 The grievant may be represented by a person of his/her choice at any formal level of this procedure.
- E7.21 Formal levels may be waived by mutual written consent of the parties.
- E7.22 If the grievant is not represented by the Association, the Association shall be notified of a settlement proposed at any written level of the procedure which is acceptable to both the grievant and the City prior to

the settlement being finalized. The purpose of this step is to allow the Association to state its position for the record. If the Association does not provide a written response within seven (7) work days after notification, such opportunity to respond shall be considered waived, and the proposed settlement shall be implemented and the matter closed. If a timely response is made, the City's representative shall give full consideration to the Association's position prior to settlement of the grievance.

E7.23 By mutual agreement of the parties, a grievance may revert to a previous level of the procedure.

ARTICLE E8 - GRIEVANCE REPRESENTATIVE

E8.1 There shall be a reasonable number of Grievance Representatives in this Unit.

E8.2 At the request of the grievant, the grievant may be represented by a Grievance Representative.

E8.3 In instances where the designated Grievance Representative is unable to represent a grievant, the President shall represent the grievant or designate a representative who is on the current list as provided below, to act as a substitute.

E8.4 Both the Grievance Representative and either the Association President or Vice-President will be allowed to represent at Level 2 or higher.

E8.5 A Grievance Representative shall be granted reasonable release time to investigate and/or prepare for a grievance procedure and to attend a formal grievance hearing. A Grievance Representative shall be granted reasonable release time to attend an investigative meeting and to act on behalf of an employee facing possible disciplinary action.

E8.6 A Grievance Representative shall operate within their designated area except as provided in Article E.8.3 above.

E8.7 A Grievance Representative desiring to leave his/her work location to process a grievance shall first obtain permission from his/her immediate supervisor. Release from work shall be made as soon as practical.

E8.8 A Grievance Representative desiring to enter the work location of a grievant to process a grievance shall first obtain permission from the grievant's supervisor. Permission to enter shall be made as soon as practical.

E8.9 The Association agrees that whenever a Grievance Representative is involved in grievance activities listed in Article E.8.5 above during working hours, only that amount of time necessary to bring about a prompt disposition of the matter will be utilized.

E8.10 The Association shall give the Human Resources Director or designee a list of the names of employees selected as Grievance Representatives.

E8.11 Only those employees whose names are on the current list shall be granted release time to serve as a Grievance Representative.

ARTICLE E9 - DISCIPLINARY APPEAL PROCEDURE

E9.1 If an employee is to be suspended, demoted, dismissed or have his/her salary reduced, he/she shall:

E9.2 Receive written notice of the proposed action stating the date it is intended to become effective and the specific grounds and particular facts upon which the action is based;

E9.3 Receive copies of any known written materials, reports or other documents upon which the action is based;

E9.4 Be accorded the right to respond in writing within a reasonable period of time to the proposed charges;

- E9.5 Also, be accorded the right to meet within a reasonable period of time with a manager who has the authority to recommend modification or elimination of the proposed disciplinary action; and
- E9.6 The employee shall be given the manager's written decision within a reasonable period of time.
- E9.7 Any employee in the Classified Service holding a regular appointment who is suspended, demoted, reclassified, dismissed or had a salary reduction shall be entitled to be heard before the Personnel Board at a duly constituted meeting in accordance with the following procedure:
- E9.8 A written request to the Board must be filed through the Department of Human Resources within fourteen (14) calendar days from the effective date of the action from which the employee seeks exception.
- E9.9 Within twenty-one (21) days after the proper filing of written request for a hearing, the Personnel Board shall commence a hearing following any review of the action and complaint deemed necessary.
- E9.10 The hearing before the Personnel Board may be public or private at the option of the employee, and the employee may be represented by legal or other council; however, the hearing shall be informal in substance and the rules of evidence prescribed for duly constituted courts shall not apply.
- E9.11 The Personnel Board shall, within fourteen (14) calendar days of the aforementioned hearing, render its decision in writing, and the Secretary shall direct copies thereof to the City Manager, the City Clerk and the employee requesting said hearing.
- E9.12 The decision of the Personnel Board may sustain, revoke, or modify the reclassification, suspension, demotion, salary reduction or dismissal and shall be final and conclusive in all respects and shall not be subject to appeal.
- E9.13 In the event the Personnel Board revokes or modifies a reclassification, suspension, demotion, salary reduction or dismissal and orders the employee reinstated to the former position, it may direct the payment of salary to the employee for the period of time the Personnel Board finds the suspension, reclassification, demotion, salary reduction or dismissal was improperly in effect.
- E9.14 Discipline shall only be taken for just cause.

ARTICLE E10 - SELECTION APPEAL PROCEDURE

- E10.1 Job applicants may file an appeal of the selection process based on any or all of the following:
- E10.2 The employee's completed application form is in dispute;
- E10.3 Assertions that the employee's experience, training, education, etc., as detailed on the employee's application, meets the qualifications as advertised in the job announcement;
- E10.4 Assertions that the City's selection procedure was not followed or that an appointment from an eligible list constitutes a violation of the City Charter merit system principle referenced in E1.2;
- E10.5 Assertions that the employee has been discriminated against on the basis of race, religious creed, color, national origin, ancestry, sex, age, physical handicap, medical conditions, marital status, or Association membership in any aspect of selection.
- E10.6 In such cases, the employee shall file a written statement specifying the dispute and requesting a review before the Director of Human Resources.
- E10.7 Such statement must be submitted within seven (7) calendar days after the applicant knew or should have known of the problem prompting the appeal pursuant to E10.2, E10.3, E10.4 or E10.5 above.
- E10.8 A review before the Director of Human Resources or designee shall be set for a time that is within seven (7)

calendar days of receipt of the appeal.

- E10.9 A fair and impartial review shall be held with the Director of Human Resources or designee to consider the facts and circumstances of the appeal. Applicant may submit any pertinent materials. If the appeal relates to an oral interview in which the Director of Human Resources participated, the appeal will go directly to the Assistant City Manager for the final determination (see 10.12 below).
- E10.10 The Director of Human Resources or designee will provide a written response to applicant within seven (7) calendar days.
- E10.11 Should applicant still be dissatisfied with the response, he/she may request within seven (7) calendar days a further review before the Assistant City Manager or a designee who is at least at the Department Director level.
- E10.12 Assistant City Manager or designee shall hold a review within seven (7) calendar days from the date of the appeal to further consider the facts and circumstances of the appeal. Assistant City Manager or designee shall make a final decision and notify applicant within fourteen (14) calendar days of the appeal.

ARTICLE E11 – CONFIRMABLE ARBITRATION

- E11.1 If a grievance has been properly processed through Article E7, Grievance Procedure, and has not been resolved, and the original grievance is an alleged misapplication of a specific provision of this MOU which adversely affects the grievant, then the grievant, through the Association, may appeal the grievance to Confirmable Arbitration.
- E11.2 To request Confirmable Arbitration, the appeal must be filed with the Director of Human Resources or designee within ten (10) days of receipt of an answer at Level 4, or ten (10) days from the last day an answer was possible at Level 4 of Article E7, Grievance Procedure.
- E11.3 The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Conciliation Service to provide a list of seven (7) names of persons qualified to act as arbitrators.
- E11.4 Within ten (10) days following receipt of the above- referenced list, the parties shall meet to select the arbitrator. The right to strike the first name shall be determined by lot, and the parties shall alternately strike one name from the list until only one (1) name remains, and that person shall be the arbitrator.
- E11.5 Within twenty (20) days following the receipt of the notice of appeal to confirmable arbitration, a meeting shall be arranged by the Director of Human Resources or designee with the employee and appropriate Association representative to prepare a joint statement of the issue(s) to be presented to the arbitrator. If the parties are unable to agree upon the issue(s), each party will prepare its statement of the issue(s) to be presented to the arbitrator.
- E11.6 The arbitrator shall hold a hearing on the issue(s) jointly submitted, or as determined by the arbitrator if the parties have not mutually agreed upon the issue(s), and, within 30 days of the hearing, render a written decision with reasons for the decision.

Post Hearing Briefs

Unless the parties mutually agree, there shall be no post hearing briefs. The parties shall present oral argument immediately upon close of the presentation of evidence. However, in the situation of multiple day hearings broken by days or weeks, or of a complex case, a party may request of the arbitrator the right to submit a post-hearing brief.

- E11.7 Each of the parties shall pay for the time and expenses of its representatives and witnesses through all stages of the arbitration and shall contribute equally to the fees and expenses of the arbitrator and court reporter, if any.
- E11.8 The parties agree that the arbitrator shall not add to, subtract from, change or modify any provision of this Agreement and shall be authorized only to apply existing provisions of this Agreement to the specific facts

involved and to interpret only applicable provisions of this Agreement.

- E11.9 The decision of the arbitrator shall be final and conclusive (i.e., “confirmed”) unless the City acts within fifteen calendar days of the date of the award to exercise an option to take the dispute to Superior Court.
- E11.10 The City shall exercise its option by sending written notice to the Association within the above-mentioned fifteen calendar day time period. In addition, by doing so, it shall incur the financial obligation of paying within sixty days of the written notice from the Association all of its legal fees and costs (including its share of the arbitration costs). In addition, any applicable statutes of limitations for seeking judicial relief are agreed to have been waived by the City, because the Association initially took the matter to Confirmable Arbitration under this agreement.
- E11.11 The Association may then take the dispute to the courts. Once a final judgment is entered, if the Association prevails in whole or in part, the City shall be responsible for the totality of the Association’s attorney’s fees and costs of the prosecution of its case in the judicial forum. These monies shall be paid within sixty days of the judgment.
- E11.12 If the City exercises its option as above-described, then the judicial proceedings shall be considered a trial *de novo*, in the same fashion as judicial proceedings are considered when one side or the other rejects court-mandated arbitration.
- E11.13 If the arbitration is final and conclusive, as described above, by the City not exercising its option to force the matter to judicial proceedings, then the arbitrator’s award is subject to the California Arbitration Act, by petition of either side, pursuant to C.C.P. Sections 1280, *et seq.*

ARTICLE E12 - APPEAL PROCEDURE WAIVER

- E12.1 The Association agrees that the procedures set forth in Article E10, Selection Appeal Procedure; Article E9, Disciplinary Appeal Procedure; Article E7, Grievance Procedure; and Article E11, Confirmable Arbitration, are the only grievance and appeal procedures available to the employees it represents and that any appeal rights found elsewhere within City Codes, Ordinances or Resolutions are waived. The sole exception to this waiver is the Impasse Procedure, which is still applicable as a dispute resolution procedure available during the meet and confer.

ARTICLE E13 - LICENSE REIMBURSEMENT

- E13.1 When an employee's work assignment requires either a California Class A or B driver’s license, the City shall, upon submission of a receipt, reimburse the difference in cost between such license and a California Class C license, when:
 - E13.2 an employee successfully renews his/her driver's license, or
 - E13.3 an employee acquires a new license upon starting a new assignment.

CHAPTER F - ASSOCIATION PROVISIONS

ARTICLE F1 - BULLETIN BOARDS

- F1.1 The Association shall have the use of designated bulletin board space to post material related to Association business.
- F1.2 The City shall determine the placement of bulletin boards and the portion of the board to be made available to the Association.
- F1.3 Any materials posted must be dated and initialed by the Association representative responsible for the posting.
- F1.4 At the time of the posting, a copy of the material must be given to the management representative designated for that bulletin board.
- F1.5 The Association shall remove posted material after it has served its purpose, usually within 30 days.
- F1.6 The Association agrees that nothing of a libelous, obscene, defamatory, or of a partisan political nature, or inconsistent with the promotion of harmonious labor relations between the City and the Association shall be posted.
- F1.7 The Association agrees that this Article provides the right to post materials only on designated bulletin boards.
- F1.8 Any material posted in violation of this Article may be removed by the management representative designated for a particular bulletin board.
- F1.9 If material is removed pursuant to Section F1.8 above, the City shall notify the Association in writing of the removal and the reasons therefore.

ARTICLE F2 - CONFERENCE ATTENDANCE

- F2.1 Up to eight (8) employees designated by the Association shall be given unpaid leave of up to ten (10) days to attend training sessions, conferences and other association activities. Each employee designated by the Association may use this provision no more than twice during each fiscal year. The cumulative total leave agreed to under this provision is ten (10) days.
- F2.2 To receive unpaid leave the employees must first receive approval for the time off from their department director by completing the City's Leave Request Form.
- F2.3 Such time off shall not be considered time worked, but shall not be considered a break in service.

ARTICLE F3 - NEGOTIATIONS PREPARATION

- F3.1 Members of the SEA negotiating team shall be released from work duties up to two (2) hours previous to each meeting scheduled for the purpose of meeting and conferring on a new Memorandum of Understanding.

ARTICLE F4 - USE OF CITY FACILITIES

- F4.1 The Association may be granted the use of City facilities subject to the following conditions:

- F4.2 the meeting is during non-work hours;
- F4.3 the meeting is for City employees;
- F4.4 the meeting is not for organizing activities;
- F4.5 the meeting is not for a membership drive;
- F4.6 the Association makes a written request at least 24 hours in advance of the day it wants to use the facility, and stating the purpose of the meeting; and
- F4.7 space is available.
- F4.8 The Parties agree the City has the right to assess reasonable charges for the use of such facilities.
- F4.9 Use of City equipment, other than items normally used in the conduct of such business meetings, such as desks, chairs, ashtrays, and blackboards, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

ARTICLE F5 - DUES DEDUCTION

- F5.1 Association dues and such other deductions as may be properly requested and lawfully permitted shall be deducted, in accordance with applicable state law, bi-weekly by the City from the salary of each employee who files with the City a written request that such deduction be made on their behalf.
- F5.2 Remittance of the aggregate amount of all deductions made pursuant to this Article shall be made to the Association by the City within thirty (30) days after such deductions are made.

ARTICLE F6 - DIRECT DEPOSIT

- F6.1 An employee may directly deposit all or a portion of his or her net salary to a bank of his or her choice via direct electronic paycheck deposit.
- F6.2 Each employee desiring this alternative must deliver a signed authorization to the Department of Human Resources requesting such electronic deposit.
- Along with the authorization requesting electronic deposit, the employee must also file a waiver prepared by the City stating that the employee knows the City can not control and is not responsible for, the day upon which the employee's bank credits his or her account with the deposited funds.
- F6.3 The specific procedures for implementing direct deposit shall be as developed and implemented by the City.

ARTICLE F7 - NEW EMPLOYEE ORIENTATION

- F7.1 The Association may prepare a new employee information packet which shall be given by the City to appropriate employees during the Department of Human Resources' orientation of new employees.

ARTICLE F8 - RELEASE TIME WHEN MEETING WITH THE CITY

- F8.1 If the President of the Association attends a mutually agreed upon meeting with the City, the President and up to three (3) designated Association Representatives, shall have reasonable release time to attend such meeting.
- F8.2 Travel time is included within the reasonable release time.

ARTICLE F9 - ASSOCIATION/MANAGEMENT PROBLEM SOLVING MEETINGS (See also Exhibit D)

- F9.1 The parties agree that regular meetings to explore mutual problems will be beneficial to the relationship between the City and the Association. To promote a problem-solving approach, the parties agree that decision making shall be by consensus. For these purposes, consensus means that no meeting participant objects to a decision or course of action under consideration by the group.

Consequently the parties agree to meet monthly to discuss any issue concerning the rights of either party or the relationship between the City and the Association or the City and employees the Association represents. The purpose of the meetings is to exchange information and to solve problems. By mutual agreement, the parties may meet more often than once a month.

The parties agree that such meetings shall not be negotiations and therefore the results of the meetings shall not be binding on the parties unless they develop and execute a document that memorializes their results.

Each of the parties will have three (3) representatives plus additional people as reasonably needed for a specific topic. Association representatives shall receive reasonable release time to participate in these meetings.

To promote the objectives of this process, the parties agree to focus on the problem under consideration and to attempt to develop a consensus solution for each problem discussed by the group. Further, to promote the objectives of this process, the parties agree to refrain from negatively characterizing the participation, ideas or approach of the other party to people outside the meeting.

ARTICLE F10 – SELF-DIRECTED WORK TEAMS

- F10.1 The Sunnyvale Employees Association and the City agree to the concept and practice of self-directed work teams (SDWT) as outlined in the Sunnyvale Initiative dated February 28, 1996.

It is further agreed that the current self-directed work teams in the Street Tree Program will continue. Additionally, new, on-going teams will be established in accordance with the SDWT initiative, upon the approval of the Project Design Team, the City Manager, the SEA Board of Directors and at least 2/3 vote of the SEA represented employees in the proposed new self-directed work team.

SEA Memorandum of Understanding 1999-2004

City of Sunnyvale:

David L. Nieto

Andrea Ferrell

Curtis Black

Sunnyvale Employees' Association:

Benjamin Gikis

Timothy Thiel

JoAnn Rees

Jacqueline Besoyan

Loren Wiser

March 21, 2000